

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division**

In re:) **Chapter 11**
)
CIRCUIT CITY STORES, INC., et al.,) **No. 08-35653-KRH**
)
Debtors.) **Jointly Administered**

**APPELLANTS' STATEMENT OF ISSUES AND DESIGNATION OF RECORD ON
APPEAL**

ROBERT GENTRY, JOSEPH SKAF, JONATHAN CARD, and JACK HERNANDEZ (“Appellants”), file this *Statement of Issues and Designation of Record on Appeal*, and states as follows:

A. Statement of Issues on Appeal

Generally, the issues on appeal shall be whether and to what extent the Bankruptcy Court erred in denying Appellants' Motion requesting application of Rule 7023 of the Federal Rules of Bankruptcy Procedure to their class proofs of claim. Specifically, Appellants challenge 1) the Court's finding that Appellants were not authorized to file class proofs of claims because Appellants were not "authorized to act as agents for the unnamed creditors;" 2) the Court's finding that Appellants' Motion was not timely because the motion had to be brought "in the first instance, before the expiration of the Bar Date;" 3) the Court's finding that class action litigation is not superior to the claims resolution process; and finally, 4) the Court's finding that notice to the unnamed claimants was adequate to satisfy due process.

B. Designation of Record on Appeal

The following designation includes any and all exhibits and attachments filed with each designated document:

| 1 | Item No. | Docket No. | Description |
|----|----------|------------|--|
| 2 | 1 | N/A | Proofs of Claim filed on behalf of Jack Hernandez (Claim No. 6045 and 6049) |
| 3 | 2 | N/A | Proof of Claim filed on behalf of Robert Gentry (Claim No. 6052 and 6039) |
| 4 | 3 | N/A | Proofs of Claim filed on behalf of Joseph Skaf (Claim No. 8717, 13744 and 13724) |
| 5 | 4 | N/A | Proofs of Claim filed on behalf of Jonathan Card (Claim No. 6040 and 6047) |
| 6 | 5 | 3703 | Debtors' Nineteenth Omnibus Objection to Claims (Reclassification of Certain Misclassified Claims to General Unsecured, Non-Priority Claims) |
| 7 | 6 | 4027 | Response to Nineteenth Omnibus Objection to Claims on behalf of Jack Hernandez |
| 8 | 7 | 4956 | Response to Debtor's Nineteenth Omnibus Objection to Claims filed by Robert Gentry |
| 9 | 8 | 4449 | Order On Debtors' Nineteenth Omnibus Objection To Claims |
| 10 | 9 | 4585 | Omnibus Objection to Claim -- Debtors' Thirty-First Omnibus Objection to Claims (Disallowance of Certain Legal Claims) |
| 11 | 10 | 4823 | Response to Debtor's Thirty-First Omnibus Objection to Claims for Jonathan Card |
| 12 | 11 | 4943 | Response to Debtor's Thirty-First Omnibus Objection to Claims on behalf of Jonathan Card. |
| 13 | 12 | 4946 | Response to Debtor's Thirty-First Omnibus Objection to Claims on behalf of Joseph Skaf. |
| 14 | 13 | 5294 | Order On Debtors' Thirty-First Omnibus Objection To Claims (Disallowance Of Certain Legal Claims) |

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| 1 | 14 | 6641 | Motion for Summary Judgment -- Debtors' Motion for and Memorandum in Support of Summary Judgment on Nineteenth Omnibus Objection to Claims as to Class of Robert Gentry |
| 2 | 15 | 6642 | <i>Debtors'</i> Supplement to the Debtors' Nineteenth Omnibus Objection to Claims as to Class Claim of Robert Gentry |
| 3 | 16 | 6643 | Motion for Summary Judgment -- Debtors' Motion for and Memorandum of Law in Support of Summary Judgment on Thirty-First Omnibus Objection to Claims (Disallowance of Certain Legal Claims) with respect to the class claim of Joseph Skaf |
| 4 | 17 | 6644 | Motion for Summary Judgment -- Debtors' Motion for and Memorandum in Support of Summary Judgment on Nineteenth Omnibus Objection to Claims with Respect to the Class Claim of Jack Hernandez |
| 5 | 18 | 6645 | Motion for Summary Judgment -- Debtors' Motion for and Memorandum of Law in Support of Summary Judgment on Thirty-First Omnibus Objection to Claims (Disallowance of Certain Legal Claims) with Respect to the Class Claim Filed by Jonathan Card |
| 6 | 19 | 6646 | Statement -- Debtors' Supplement to the Thirty-First Omnibus Objection to Claims (Disallowance of Certain Legal Claims) with Respect to the Class Claim of Joseph Skaf |
| 7 | 20 | 6660 | Statement -- Debtors' Supplement to the Thirty-First Omnibus Objection to Claims (Disallowance of Certain Legal Claims) with Respect to the Class Claim Filed by Jonathan Card |
| 8 | 21 | 6661 | Statement -- Debtors' Supplement to the Nineteenth Omnibus Objection to Claims (Reclassification of Certain Misclassified Claims to General Unsecured, Non-Priority |
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**Claims) with Respect to the Class Claim
Filed by Jack Hernandez**

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| 22 | 6859 | Omnibus Response to and Opposition of Creditor's Card, Hernandez, Gentry and Skaf to Debtor's Motion for Summary Judgment and Creditor's Application for Rule 56(f) Discovery |
| 23 | 6931 | Omnibus Reply Brief in Support of Motions for Summary Judgment and Supplemental Objections with Respect to Certain Claims Subject to (i) the Debtors' Nineteenth Omnibus Objection to Claims (Reclassification of Certain Misclassified Claims to General Unsecured, Non-Priority Claims) and (ii) the Debtors' Thirty-First Omnibus Objection to Claims (Disallowance of Certain Legal Claims) |
| 24 | 6995 | Hearing held as to priority portion of claims; MOTIONS GRANTED--Claims disallowed as priority claims; ruling is without prejudice as to Rule 7023 relief |
| 25 | 7072 | Order Granting Debtors' Motion For and Memorandum Of Law in Support Of Summary Judgment On Nineteenth Omnibus Objection To Claims with respect to the class of Robert Gentry |
| 26 | 7074 | Order On Debtors' Motion For and Memorandum Of Law In Support Of Summary Judgment On Thirty-First Omnibus Objection To Claims for Joseph Skaf |
| 27 | 7075 | Order Granting Debtors' Motion For Summary Judgment On Nineteenth Omnibus Objection To Claims for the Class of Jack Hernandez |
| 28 | 7076 | Order Granting Debtors' Motion For and Memorandum Of Law In Support Of Summary Judgment On Thirty-First Omnibus Objection To Claims With |

1 Respect To The Class Claim Of
2 Jonathan Card

3 29 7062 Notice and Motion to Approve Application
4 30 7080 of Rule 7023 to the Class Proofs of Claims
5 31 7166 Amended Declaration of Michael Righetti
6 with Notice of Errata Regarding Creditors
7 Card, Gentry, Hernandez and Skaf's Motion
8 to Approve Application of Rule 7023 to
9 Class Proof of Claims
10 31 7166 Debtors Response to Creditors Gentry,
11 Hernandez, Card and Skaf's Omnibus
12 32 7176 Motion Requesting an Order Applying
13 Bankruptcy Rule 7023 to Their Class Proofs
14 33 7221 of Claim Pursuant To Bankruptcy Rule
15 9014(c)
16 34 7664 Reply to and In Support of Creditors'
17 Omnibus Motion to Approve 7023 Class
18 35 7665 Proof of Claim
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21 Dated: June 23, 2010
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Hearing held; MOTION DENIED. Motion to Approve Application of Rule 7023 to the Class Proofs of Claims of Creditors Card, Gentry, Hernandez and Skaf filed by Robert Gentry, Jack Hernandez, Joseph Skaf, Jonathan Card

Memorandum Opinion re: Motion for 7023
Order Denying Motion to Approve

Respectfully submitted,

RIGHETTI LAW FIRM, P.C.

/s/ Michael Righetti
Attorneys for Creditors/Appellants